

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

KEVIN LAWRENCE HENDRICKSON,

Petitioner,

v.

ALICE PAYNE,

Respondent.

Case No. C06-5331 RBL/KLS

ORDER TO SHOW CAUSE WHY
THIS ACTION SHOULD NOT BE
DISMISSED

The petitioner in this action is seeking federal habeas corpus relief pursuant to 28 U.S.C. § 2254. This case has been referred to Magistrate Judge Karen L. Strombom pursuant to Title 28 U.S.C. §§ 636 (b) (1) Local MJR 3 and 4.

Petitioner seeks to challenge a February 2006 conviction and sentence. (*See* proposed Habeas Petition, Dkt. # 1). Petitioner states that he has filed an appeal with the Washington State Supreme Court and is awaiting a final decision on that appeal.

There is an exhaustion requirement in federal court for habeas actions. In order to satisfy the exhaustion requirement, petitioner's claims must have been fairly presented to the state's highest court. Picard v. Connor, 404 U.S. 270, 276 (1971); Middleton v. Cupp, 768 F.2d 1083, 1086 (9th Cir. 1985). A federal habeas petitioner must provide the state courts with a fair opportunity to correct alleged violations of prisoners' federal rights. Duncan v. Henry, --- U.S. ---, 115 S.Ct. 887, 888 (1995). It is not enough that all the facts necessary to support the federal claim were before the state courts or that a somewhat

1 similar state law claim was made. Id., citing Picard v. Connor, 404 U.S. 270 (1971) and Anderson v.
2 Harless, 459 U.S. 4 (1982). Thus, petitioner's claim before this court at this time appears unexhausted.

3 2. Accordingly, petitioner shall show cause why this petition should not be dismissed. A response
4 is due by **July 21, 2006**. If petitioner fails to file a response or the response shows the petition cannot go
5 forward the court will enter a report and recommendation that the petition be dismissed.

6 3. The Court Clerk is directed to send a copy of this Order to petitioner.

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8 DATED this 3rd day of July, 2006.

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11 Karen L. Strombom
12 United States Magistrate Judge
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